THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 19380 OF 2005

Dated: 18th October, 2005

Between:

1. S.Ramesh and Others …Petitioners

A N D

1. Commissioner and Election Officer,

Sircilla Municipality, Sircilla,

Karimnagar District and Others …Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 19380 OF 2005

ORDER:

1. The petitioners who are five in number are voters in Sircilla Municipality. They assailed the action of the respondents in reserving the office of Chairperson of Sircilla Municipality, for woman (General). It is their contention that the office of

Chairperson of Sircilla Municipality is to be reserved to woman (S.C.) in the Municipal Elections, 2005.

2. S. Ramesh, one of the petitioners has sworn to the writ affidavit. The writ affidavit in brief is:- The Commissioner and Election Officer, Sircilla Municipality-1st respondent has sent particulars of population and voting strength in Sircilla Municipality showing the Ward Numbers; Scheduled Caste population, total population of men and women, B.C. voters-men and women, and total voters-men and women. Basing upon the said particulars reservation has been fixed for wards. According to petitioners, the particulars sent by the Commissioner to the District Collector, who is the Election Authority, are not correct. The Election Authority reserved the office of Chairperson for woman (General). During 1988 it was reserved for women (General). During 1995 it was reserved for women (B.C.) and in 2000 it was reserved for men (General) and again in 2005 it is reserved for women (General). Thus in a short period of 10 years, it was reserved for women (General) for two times. The petitioners submitted representation on 18-8-2005 to the District Collector and Election Authority complaining that the particulars given by the Election Officer-Cum-Commissioner, Sircilla Municipality are totally wrong and contrary to the voters list of 2004 and population Census of 2001. The Commissioner-cum-Election Officer, Sircilla Municipality through proceeding dated 27th August, 2005 replied to the petitioners that the reservation of seats for ensuing election of Sircilla Municipality has been fixed as per the orders of the Government issued through G.O.Ms. NO. 38 MA dated 3.2.1995 and the same has been approved by the District Election Authority on 22nd August, 2005 and published in the District Gazette No. 35 on 2nd August, 2005. The action of the respondents in reserving the wards of Sircilla town basing on the wrong particulars of the voters furnished by the Commissioner and Election Officer, Sircilla Municipality is arbitrary and illegal. The action of the respondents in not reserving the office of chairperson for S.C.(Women) is arbitrary and illegal.

3. Respndents 1 and 4 filed counter affidavits. One B.Yella Reddy has sworn to the counter affidavit filed on behalf of the 1st respondent. It is stated in the counter affidavit that in view of the delimitation of the wards, the number of wards has been increased from 24 to 29. After taking 2001 census population, reservation of seats has been fixed in descending order as contemplated under Rule 8 of the Andhra

Pradesh Municipalities (Reservation of Seats in Municipal Councils and Nagar Panchayats) Rules, 1995. Percentage of wardwise B.C. voters, in descending order has also been prepared as contemplated under Rule 9 of the Rules. I deem it appropriate to refer paras 4 and 5 of the counter affidavit and they are thus:

> *"It is respectfully submitted that the present Municipality has taken 2001 census for the purpose of reservation of ST, SC and Women. It is pertinent to mention here that previously the 1st respondent Municipality is having 24 Wards. In view of the de-limitation of Wards, it was increased from 24 Wards to 29 Wards. After taking into 2001 census for the population criteria the 1st respondent Municipality prepared Ward wise population i.e., ST,SC, Women. Basing on the 2001 census population the 1st respondent Municipality prepared percentage of Wardwise ST population, SC population, Women population in descending order as contemplated under Rule 8 of the said rules, and also prepared percentage of wardwise BC voters in descending order as contemplated under Rule 9 of the Rules, which was amended subsequently. It is pertinent to mention here that after preparing the above stated population in descending order and wardwise BC voters, the same was published and objections were called for from general public by giving 15 days time for submitting objections, if any. The 1st respondent Municipality has not received any objections from the general public.*
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> *It is respectfully submitted that basing on the particulars of population of the ST, SC, Women and BC voters, I forwarded the same to the District Election Authority i.e., the 2nd respondent herein The 2nd respondent herein in turn requested the 1st respondent Municipal Council to express its views. The 3rd respondent Special Officer approved the same by way of a resolution No. 69, dt. 22-8-2005. Basing on the same, the same was forwarded to the District Election Authority i.e., the 2nd respondent herein. The 2nd respondent herein issued a Gazette publication. Out of 29 wards, the following is the reservation of wards to various categories.*
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> *(i) S.T. (G) – 1 ward; (ii) S.T. (G) – 1 ward; (iii) B.C.-10 Wards (Out of which 6 Wards for General and 4 Wards for Women), (iv) Unreserved – 17 wards"*

It is further stated in the counter affidavit that the writ petition is not maintainable as

Election Notification has been issued by State Election Commissioner on 29-8-2005 and whereas the present writ petition is filed after publication of the notification i.e. 30-8-2005.

4. One N.P.Ch. Bhaskara Rao has sworn to the counter affidavit filed on behalf of the 4th respondent. The counter affidavit in brief is that the petitioners have filed the petition without knowing the procedure followed in the process of reservation of the Ward Members and Chairperson for the purpose of ensuing Elections to Municipalities/Nagar Panchayats in the State during the year 2005. The Government has completed the process of reservation to the offices of Chairperson to reserved categories which are Scheduled Tribes (STs), Scheduled Cates (SCs), Backward Classes (BCs) and Women (General) to the Municipalities/Nagar Panchayats as appended to the Notification in G.O.Ms.No. 759 M.A., dated 18-8-2005. As per the Notification, the 1st respondent has fixed the reservation to the office of Chairperson of Municipality in question i.e., Sircilla Municipality to 'Women (General)'. The Commissioner and Director of Municipal Administration in exercise of powers delegated to him by the Government in G.O.Ms.No.37 M.A., dated 3-2-1995 has fixed the number of officers of member to be reserved to Scheduled Tribes, Scheduled Castes and Backward Classes and Women. On fixing the number in Roc.No. 6236/2005-Elec.I(2), dated 18-8-2005, the Commissioner and Director of Municipal Administration has issued instructions to all the District Collectors and Municipal Commissioners concerned to complete the exercise of reservation to the wards as per the rules prescribed in G.O.Ms.No.35 M.A., dated 3-2-1995 and as amended in G.O.Ms.No. 749 M.A. , dated 13-8-2005. Basing on the said instructions of Government and Commissioner and Director of Municipal Administration, Hyderabad; the District Collector, Karimnagar, has completed the process of reservation to the wards of Sircilla Municipality to various categories. The Government has completed the process of determining the offices of Chairperson reserved to members belonging to varies categories in 116 Municipalities/Nagar Panchayats in exercise of the powers conferred by Section 23 of the Andhra Pradesh Municipalities Act, 1965 (Act No. 6 of 1995) read with Rule 3 and 12 of the Andhra Pradesh Municipalities (Reservation of offices of Chairperson in Municipal Councils and Nagar Panchayats) Rule, 1995 issued in G.O.Ms.No. 36 M.A. dated 3.2.1995 read with G.O.Ms.No.450 M.A., dated 23-10-2004 and G.O.Ms.No. 758 M.A., dated 16-8-2005. The reservation of offices of Chairperson for various

categories shall be made in the order of Scheduled Tribes, Scheduled Castes and Backward Classes and Women and be allotted by rotation. The reservation of offices of Chair persons shall be started afresh without reference to the reservation of the offices of Chairpersons made prior to issue of the Andhra Pradesh Municipalities (Reservation of offices of Chairpersons in Municipal Councils and Nagar Panchayats) Rules, 1995. During the elections held in 1995, the office of the Chairperson of Sircilla Municipality was determined as B.C. (Women) Category vide G.O.Ms.No.70 M.A., dated 16-02-1995 and during the elections held in 2000, the office of Chairperson was determined as unreserved vide G.O.Ms.No.71l M.A., dated 05-02-2000. During 2005 elections, the office of the Chairperson of Sircilla Municipality has been reserved for women (General) basing on the population data and on rotation basis. The total population/Women population/ SC population and ST population figures of all Municipalities and Municipal Corporations has been taken into consideration with reference to Census 2001. Under Article 243 T of the Constitution Act, certain provisions have been made for providing reservations to SCs and STs by rotation and it is left to the State Government for providing reservations to B.C. Accordingly, necessary amendments were made in Sec. 8 and 23 of A.P. Municipalities Act, 1965 and Rules were also made accordingly in G.O.Ms.No. 35 and 36 M.A., dated 3.2.1995, in respect of Municipalities. Government has issued guidelines in G.O.Ms.No. 514 M.A., dated 15-10-2001 for identification of B.C. Voters duly amending Rule 9 of A.P. Municipalities and Nagar Panchayats (Reservation of Seats) Rules, 1994 issued in G.O.Ms.No.35 M.A., dated 3.2.1995 wherein it was mentioned that after arriving at the wards proposed to be reserved for STs, SCs, to remaining wards in the Municipality shall be on rotation basis with reference to the largest percentage of voters of the said category to the total number of voters of the ward in the Municipality concerned in descending order. The procedure laid down in reserving the offices of Chairperson/ Seats has been duly followed by the concerned authorities/Government/Municipalities.

5. Heard learned counsel for the petitioners and learned Standing Council for Municipalities appearing for the 1st respondent and learned Government Pleader appearing for Respondent No.4.

6. Learned counsel appearing for the petitioners submits that reservation of office of

the Chairperson of Sircilla Municipality to the Women (General) is not in accordance with the population ratio. He further submits that the reservation of Wards in Sircilla Municipality under various categories such as STs, SCs and B.Cs is not in accordance with the percentage of voters in respect of Wards. He refers the voting strength in various wards of the Sircilla Municipality in support of his submissions. A further submission has been made that the representation submitted by the petitioners has not been dealt by the District Election Authority properly and therefore, the reservation of office of Chairperson to women (General) is not legal and proper and the same is liable to be set aside. In support of his submission, he refers the population figures in various wards more particularly with reference to Ward Nos. 1,6,12 and 26 to convince the Court that reservation made in favour of STs, SCs and B.Cs and also women is not in accordance with the population ratio.

7. Learned Standing Counsel appearing for the 1st respondent submits that in view of the de-limitation of Municipalities/Nagar Panchayats, the cycle of allotment of seats shall start afresh. He further submits that the District Collector fixed the reservation of Wards for STs,SCs and BCs and Women in accordance with the provisions of Andhra Pradesh Municipalities (Reservation of Seats in Municipal Councils and Nagar Panchayats) Rules, 1995 and after consulting the Municipal Council, Sircilla.

8. Learned Government Pleader appearing for Respondent No.4 submits that the District Election Authority considered the population ratio on various categories in Sircilla Municipality and made necessary recommendations and thereupon the Government of Andhra Pradesh issued G.O.Ms.No. 759, dated 18-8-2005 reserving the office of the Chairperson of the Sircilla Municipality to women (General). In support of his submission, he refers Rule 9 of Andhra Pradesh Municipalities (Reservation of seats in Muncipal Councils and Nagar Panchayats) Rules, 1995 as amended by G.O.Ms.No. 450, dated 23-6-2005. Rule 9 reads as follows: -

> *"After arriving at the wards proposed to be reserved for Scheduled Tribes, Scheduled Castes to different wards in a Municipality the seats to be reserved for Backward Classes in the remaining wards in the Municipality shall be on rotation basis with reference to the largest percentage of voters of the said category to the total number of voters of the ward in the Municipality concerned in descending order".*

9. Part IX A was added to the Constitution by the Constitution (73rd Amendment) Act, 1992. This amendment has added 18 new articles and a new schedule-Twelfth Schedule relating to urban local bodies in the Constitution. Like Panchayati Raj Amendment, the 73rd Amendment provides for constitutional sanction to the urban self governing institutions ensuring regular elections and enabling them to play a greater role in the development of urban areas. This provides for three types of Municipal corporations and reservation of seats in every municipality for Scheduled Castes, Scheduled Tribes and women.

10. Art. 243-T provides for the reservation of seats for the members of Scheduled Castes and Scheduled Tribes in every Municipality. The number of seats reserved for them shall be as nearly as may be, in same proportion to the total number of seats to be filled by directed election in that Municipality as the population of the SC's and ST's in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality. Out of the total number of seats reserved under clause (1), 1/3 seats shall be reserved for women belonging to the SC's and ST's as the case may be. Out of total number of seats (including the number of seats reserved for women belonging to the SC's and ST's), to be filed by direct election in every Municipality 1/3 seats shall be reserved for women. Such seats may be allotted by rotation to different constituencies in a Municipality. The office of Chairpersons in the Municipalities shall be reserved for the SC's, ST's and women in such manner as the legislature of a State may, by law, provide.

11. The Government in exercise of powers conferred by sub-section (1) of Section 326 read with clause (a) of sub-section (1) of Section 10 of the Andhra Pradesh Municipalities Act, 1965 made rules called the Andhra Pradesh Municipalities (Division of Nagar Panchayats and Municipalities into Wards) Rules, 1994. As per the Rules, 1994, whenever an exercise for division of Municipalities and Nagar Panchayats into wards has been taken up, the cycle of reservation of seats shall start afresh. In the case on hand, the de-limitation of wards of Sircilla Municipality has been taken up basing on 2001 census and the number of wards has been increased from 24 to 29 Therefore, the cycle of allotment of seats shall start afresh from the year 2005 The Government of Andhra Pradesh in exercise of powers conferred by Sub-Section (1) of Section 326 read with clause (a) of sub-section (1) of Section 10 of the Andhra Pradesh Municipalities Act, 1965 issued rules called the

Andhra Pradesh Municipalities (Reservation of Seats in Municipal Councils and Nagar Panchayats) Rules, 1995. Under Rule 8, the reservation of seats for members belonging to Scheduled Tribes, Scheduled Castes and Women in the Wards of the Municipalities shall be made with reference to the largest percentage of population of the said category to the total population of the ward in the descending order. Under Rule 9 after arriving at the wards proposed to be reserved for Scheduled Tribes and Scheduled Castes to different wards in a Municipality, the seats to be reserved for Backward Classes in the remaining wards in the Municipality shall be on rotation basis with reference to the largest percentage of voters of the said category to the total number of voters of the ward in the Municipality concerned in descending order.

12. The Government issued instructions in ROC. No.16236/2005/Elec.I(2), dated 18-8-2005 as to how reservation to various categories in seats of Municipalities is to be workedout. Para 9 of the instructions needs to be noted and it is thus:

> "*The following information should be kept ready before starting the process of making reservations for different categories in the wards.*
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> a. *Ward wise SC population and total population.*
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> b. *Ward wise ST population and total population.*
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> c. *Ward wise B.C.voters and Total voters.*
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> d. *Ward wise Women Population and Total population".*

13. The first step shall be reservation of seats for Scheduled Tribes. The second step shall be reservation of seats for Scheduled Castes. The third steps shall be reservation of seats for Backward Classes. The fourth step shall be reservation of seats for Women from unreserved seats (general). The fifth and final step shall be declaration of unreserved seats (General). The 1st respondent placed on record the entire material which formed the basis for proposing reservation of seats under various categories in Sircilla Municipality. A draft notification has been published fixing the reservation seats out of the total strength of the Municipal Council, Sircilla. Fixing of reservation of seats is based on population ratio category wise in each Ward. Therefore, I find that fixing of reservation of seats is in accordance with the provisions of Andhra Pradesh Municipalities (Reservation of Seats in Municipal

Councils and Nagar Panchayats) Rules, 1995.

14. Coming to the reservation of office of the Chairperson of Sircilla Municipal Council, the same has been reserved to woman basing on the population and on rotation basis. The procedure adopted in reservation of Chairperson has been detailed in Paras 19 and 20 of the counter affidavit filed on behalf of the 4th respondent. It is stated in paras 19 and 20 as follows:

> *"Hence, the Government in Municipal Administration & Urban Development have issued guidelines in G.O.Ms.No.444 M.A., dated 4-10-2001 for identification of B.C. Voters in respect of Municipal Corporations duly amending rule 10 of the A.P. Municipal Corporations (Reservation of Seats) Rules, 1995 issued in G.O.Ms.No.44 M.A., dated 6-2-1995, in which it was mentioned that after arriving at the wards proposed to be reserved for STs, SCs in different wards in Municipal Corporation the seats to be reserved for BCs in the remaining wards in the Corporation shall be on rotation basis with reference to the largest percentage of voters of the said category to the total number of voters of the ward in the Municipal Corporation in the descending order.*
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> *In respect of Municipalities, Government have issued guidelines in G.O.Ms.No.514 M.A., dated 15-10-2001 for identification of B.C. Voters duly amending Rule 9 of A.P. Municipalities and Nagar Panchayats (Reservation of Seats) Rules, 1994 issued in G.O.Ms.No. 35 M.A., dated 3-2-1995 wherein it was mentioned that after arriving at the wards proposed to be reserved for STs, SCs, to remaining wards in the Municipality shall be on rotation basis with reference to the largest percentage of voters of the said category to the total number of voters of the ward in the Municipality concerned in descending order. Basing on the said instructions, identification of B.C. Voters has been taken by all ULBs in a time schedule as prescribed by Government. On giving considerable time to the public calling for objections/suggestions in identification of B.C.Voters, all the ULBs have arrived at the B.C. Voters data. On arrival of B.C. Voters, the date has been utilized in reservation to the offices of Chairperson/Seats to the B.C. Cateoory".*

15. The writ petitioners, in my considered opinion, have failed to substantiate their contention that the office of Chairperson of Sircilla Municipality is to be reserved for

Scheduled Caste. The Writ Petitioners have not placed any material on record to show that notification dated 18-8-2005 fixing the reservation of Officers of Chairpersons to Scheduled Tribes, Scheduled Castes, Backward Classes and Women is contrary to the provisions of Andhra Pradesh Municipalities (Reservation of Officers of Chairperson in Municipal Councils and Nagar Panchayats) Rule, 1995

16. In the result, I find that the writ petition is devoid of merit and the same is liable to be dismissed. Accordingly the writ petition is hereby dismissed. No order as to costs.

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B.Seshasayana Reddy,J.

18th October, 2005.

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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